

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Anna Steel	Team: Team # 8	CCRB Case #: 200803782	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 03/10/2008 10:27 PM	Location of Incident: § 87(2)(b)	Precinct: 40	18 Mo. SOL 9/10/2009	EO SOL 9/10/2009	
Date/Time CV Reported Mon, 03/10/2008 10:27 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 03/14/2008 2:21 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Pastula	11648	943653	PSA 7
2. POM Jean Carela	19219	943048	H BX/Q
3. POM Isaac Soberal	18537	943830	PSA 7
4. POM John Lane	28663	944103	PSA 7
5. An officer			PSA 7
6. Officers			PSA 7

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Mark Portelli	00718	928985	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.POM Jean Carela	Discourtesy: PO Jean Carela spoke obscenely to § 87(2)(b)	
B.POM Jean Carela	Abuse: PO Jean Carela threatened to arrest § 87(2)(b)	
C.POM Jean Carela	Discourtesy: PO Jean Carela spoke obscenely to § 87(2)(b)	
D.POM John Lane	Abuse: PO John Lane threatened to arrest § 87(2)(b)	
E.POM Isaac Soberal	Abuse: PO Isaac Soberal threatened to arrest § 87(2)(b)	
F.POM Jean Carela	Force: PO Jean Carela used physical force against § 87(2)(b)	
G.POM Jean Carela	Abuse: PO Jean Carela frisked § 87(2)(b)	
H.POM Brian Pastula	Discourtesy: PO Brian Pastula spoke obscenely to § 87(2)(b) and § 87(2)(b)	
I.POM Jean Carela	Abuse: PO Jean Carela searched § 87(2)(b)	
J.POM Jean Carela	Force: PO Jean Carela used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
K.POM John Lane	Discourtesy: PO John Lane spoke obscenely to § 87(2)(b)	
L.POM Jean Carela	Abuse: PO Jean Carela refused to provide his name and shield number to § 87(2)(b)	
M. Officers	Force: Officers used physical force against § 87(2)(b) and § 87(2)(b)	
N. An officer	Discourtesy: An officer spoke obscenely to § 87(2)(b)	

Synopsis

On March 10, 2008, at approximately 10:30 PM, § 87(2)(b) and § 87(2)(b) were in their residence, located at § 87(2)(b) in the Bronx, § 87(2)(b) in the Bronx. They heard a commotion in the hallway and the voice of their relative, § 87(2)(b) yelling for § 87(2)(b). § 87(2)(b) entered the hallway first, followed by § 87(2)(b). Four officers, identified through the investigation as PO Jean Carela, PO Brian Pastula, PO Isaac Soberal and PO John Lane of Police Service Area 7, were standing in the hallway. PO Carela and PO Pastula were arresting § 87(2)(b). PO Soberal and PO Lane were standing with a second individual, identified through the investigation as § 87(2)(b) towards the end of the hallway by the elevators. § 87(2)(b) and § 87(2)(b) approached PO Pastula and PO Carela. § 87(2)(b) asked what was happening. PO Carela allegedly told him to “mind [his] fucking business” and “take [his] ass” inside his apartment (**Allegation A**) before he was arrested (**Allegation B**). § 87(2)(b) alleged that PO Carela told her to “get the fuck inside” (**Allegation C**) her residence. PO Lane and PO Soberal stated that they would ‘lock [her] up’ if she did not stop ‘talking shit’ (**Allegation D and E**).

§ 87(2)(b) and § 87(2)(b) turned around and returned towards their residence. PO Carela allegedly approached § 87(2)(b) from behind, slammed her against a wall (**Allegation F**) and frisked her (**Allegation G**). At the conclusion of this frisk, § 87(2)(b) alleged that PO Pastula told her to go get her “fucking ID” (**Allegation H**). § 87(2)(b) entered her apartment. § 87(2)(b) alleged that PO Carela searched him and used physical force against him while § 87(2)(b) was retrieving her ID (**Allegation I and J**). § 87(2)(b) alleged that PO Soberal and PO Lane also said, “arrest her ass” (**Allegation D and E**) at this time. PO Carela told § 87(2)(b) he was free to leave and § 87(2)(b) walked towards his residence. When § 87(2)(b) attempted to walk through his front door, PO Pastula allegedly asked him if he had a “fucking problem” and later, after providing his name and shield number, said, “It’s not like you can do shit with it” (**Allegation H**). PO Lane also allegedly told § 87(2)(b) to “shut the fuck up” at this time (**Allegation K**). At the conclusion of the incident, § 87(2)(b) requested PO Carela’s name and shield number, which PO Carela refused to provide (**Allegation L**).

In his telephone statement with the CCRB (encl. 17), § 87(2)(b) alleged that an officer used physical force against him (**Allegation M**) and later directed profanity towards him (**Allegation N**) at some point during the incident. During his own telephone statement to the CCRB (encl. 20), § 87(2)(b) alleged that two officers brought him to the ground (**Allegation M**). At the conclusion of the incident, § 87(2)(b) was transported to the hospital for swallowing narcotics and later to the Police Service Area 7 stationhouse, where both § 87(2)(b) and § 87(2)(b)’s arrests were processed. § 87(2)(b) was arrested for § 87(2)(b). § 87(2)(b) was arrested for § 87(2)(b).

§ 87(2)(g)

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) years old. He is a Hispanic male with black hair and brown eyes. He is 6'1" tall and weighs 150 pounds. § 87(2)(b) provided an initial statement to IAB at the time of his call to 911 (encl. 6). This generated Internal Affairs complaint log number 08- 10046 (encl. 7a – 7c). § 87(2)(b) was interviewed by Internal Affairs on March 11, 2008, at 2:17 AM (encl. 8). His complaint was forwarded to the CCRB on March 14, 2008 (encl. 9a – 9c). § 87(2)(b) provided a brief telephone statement to the CCRB on March 18, 2008 (encl. 10). § 87(2)(b) was interviewed by the CCRB on March 27, 2008 (encl. 11a – 11e). His statements have been combined with inconsistencies noted below.

On March 10, 2008, at approximately 10:30 PM, § 87(2)(b) was in his residence, located at § 87(2)(b) in the Bronx. His mother, § 87(2)(b) and his cousin, § 87(2)(b) were also in the apartment. § 87(2)(b) went downstairs to visit one of his friends. A few minutes later, § 87(2)(b) heard a commotion and § 87(2)(b) yelling for § 87(2)(b) went into the hallway to investigate. This hallway is L-shaped. At one end is § 87(2)(b) apartment, there is an incinerator in the bend of the hallway, and at the other end are the elevators.

When § 87(2)(b) entered the hallway, he saw § 87(2)(b) standing by the incinerator. § 87(2)(b) walked towards her and stood to her left side. Two officers, identified through the investigation as PO Brian Pastula and PO Jean Carela of Police Service Area 7, were standing by § 87(2)(b) who was lying on the ground with his hands handcuffed behind his back. § 87(2)(b) described PO Pastula as a white male who was about 6' tall, of medium build and had dark blonde hair. § 87(2)(b) described PO Carela as a white male who was about 5'11" tall, of medium build, and had dark hair. There was another individual, identified through the investigation as § 87(2)(b) lying on the ground beyond § 87(2)(b). Additional officers, identified through the investigation as PO Isaac Soberal and PO John Lane, were standing next to § 87(2)(b).

§ 87(2)(b) asked PO Pastula why they were arresting § 87(2)(b). PO Pastula did not respond. § 87(2)(b) turned to PO Carela and asked him the same question. PO Carela allegedly replied, "Mind your fucking business and take your ass inside your house before I arrest you" (**Allegation A** and **Allegation B**). § 87(2)(b) repeated his inquiry. PO Carela again said 'mind your fucking business' and asked him whether he wanted to be arrested (**Allegation A** and **Allegation B**). In § 87(2)(b) initial statement to IAB (encl. 6), § 87(2)(b) contrastingly stated that PO Pastula issued these statements to him. § 87(2)(b) and § 87(2)(b) turned around and walked back towards their apartment.

§ 87(2)(b) remarked that he was going to call a lawyer and § 87(2)(b) said that she was going to call her husband. PO Carela became upset for some reason. He approached § 87(2)(b) and § 87(2)(b) after they had passed the bend in the hallway and instructed them to stand against the wall. Both § 87(2)(b) and § 87(2)(b) complied. At the time of his telephone statement to the CCRB (encl. 10), § 87(2)(b) alleged that PO Carela also stated, "You want to be a smart ass?" when he approached them. He made no mention of this statement during his interview with the CCRB (encl. 11a – 11e). § 87(2)(b) alleged that PO Carela grasped § 87(2)(b) by the arm, turned her around and pushed her against the wall. In the process, § 87(2)(b)'s right arm collided with the metal frame of a door and was injured. PO Carela held § 87(2)(b)'s arm against the wall and patted her down over her torso and legs. In his initial statement to IAB (encl. 6), § 87(2)(b) contrastingly stated that § 87(2)(b) voluntarily stood against the wall and stated that PO Pastula frisked her.

Because he objected to the manner in which PO Carela was searching § 87(2)(b) § 87(2)(b) told PO Carela that he needed to watch where he was ‘putting his fucking hands.’ PO Carela did not respond. At the conclusion of the frisk, PO Carela turned to PO Pastula and said, “Get her the fuck away from me, I don’t need her anymore.” At the time of his telephone statement to the CCRB (encl. 10), § 87(2)(b) said that PO Carela had stated, “Get this fucking woman away from me.” PO Carela then sent § 87(2)(b) into her apartment while allegedly saying, “Now, I want to see your fucking ID. Hurry up and get it.” § 87(2)(b) complied and went into the apartment to retrieve her ID.

PO Carela turned to § 87(2)(b) and asked him if he had anything in his pockets, including sharp objects or drugs. § 87(2)(b) was still standing against the wall with his legs spread. PO Carela searched through all of § 87(2)(b) pockets (**Allegation I**). In his initial statement to IAB (encl. 6), § 87(2)(b) contrastingly stated that PO Pastula searched him. PO Carela then kicked § 87(2)(b) right leg on his calf in order to move his legs farther apart (**Allegation J**). § 87(2)(b) calf was bruised as a result, but he never sought any medical treatment for this injury, which had faded by the time of his interview at the CCRB. PO Carela searched through § 87(2)(b) pockets again and then told him he was free to leave. § 87(2)(b) was not in the hallway while § 87(2)(b) was searched.

§ 87(2)(b) turned towards his apartment. PO Pastula was standing in front of his doorway, waiting for § 87(2)(b) to provide her ID. § 87(2)(b) asked PO Pastula if he could enter his apartment. PO Pastula allegedly said, “What did you say? Do you have a fucking problem?” (**Allegation H**). § 87(2)(b) explained that he was just trying to get inside. § 87(2)(b) came to the front door and gave her ID to PO Pastula, who stepped to the side and allowed § 87(2)(b) to enter his apartment. In his telephone statement to the CCRB (encl. 10), § 87(2)(b) also said that PO Pastula stated, “I’ll lock your ass up” if he had a problem, though he made no mention of this at the time of his interview with the CCRB (encl. 11a – 11e). PO Lane then came around the corner and began swearing at § 87(2)(b). He allegedly said, “Why don’t you just shut the fuck up” (**Allegation K**) and insinuated that § 87(2)(b) and § 87(2)(b) were selling things out of their apartment. § 87(2)(b) made no mention of this allegation at the time of his initial statement to IAB (encl. 6) or during his telephone statement to the CCRB (encl. 10). § 87(2)(b) described this officer as a white male who was about 6’2” to 6’3” tall, of medium build with light colored hair.

§ 87(2)(b) asked PO Pastula for his name and shield number. PO Pastula replied that his name was ‘Pastula’ and his shield number was ‘11648.’ PO Pastula remarked that he would give this information to § 87(2)(b) but stated, “It’s not like you can do shit with it” (**Allegation H**). § 87(2)(b) ignored this comment and turned to PO Carela and asked for his name and shield number. PO Carela repeatedly told § 87(2)(b) that if he wanted this information, he would have to step into the hallway. § 87(2)(b) felt threatened by this statement, and did not want to step into the hallway. PO Carela never provided his name or shield number (**Allegation L**). § 87(2)(b) and § 87(2)(b) closed the door. § 87(2)(b) called Internal Affairs at this time.

The following day, on March 11, 2008, § 87(2)(b) went to a grocery store and encountered PO Carela upon entering his building. § 87(2)(b) asked for PO Carela’s name and shield number at this time. PO Carela responded that his name was ‘Carela’ and his shield number was ‘19219.’

Results of Investigation

Additional Civilian Statements:

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) years old. She is a Hispanic female who is 5’6” tall, weighs 170 pounds and has brown hair and brown eyes. § 87(2)(b) provided a statement to medical personnel at § 87(2)(b) on § 87(2)(b), at § 87(2)(b) (encl. 12). § 87(2)(b) was interviewed by Internal Affairs on March 11, 2008, at 3:40 AM (encl. 13). § 87(2)(b) provided a brief telephone statement to the CCRB on March 18, 2008 (encl. 14). § 87(2)(b) was interviewed at the CCRB on March 27, 2007 (encl. 15a – 15f). Her statements have been combined with inconsistencies noted below.

On March 10, 2008, at approximately 10:30 PM, § 87(2)(b) was in her residence, located at § 87(2)(b) in the Bronx. § 87(2)(b) s son, § 87(2)(b) her two daughters, § 87(2)(b) and § 87(2)(b) and her nephew, § 87(2)(b) were also in the apartment. § 87(2)(b) is § 87(2)(b) years old and § 87(2)(b) is § 87(2)(b) years old. § 87(2)(b) told § 87(2)(b) that he was going to get a cell phone charger from a friend in the building. Ten to twenty minutes later, § 87(2)(b) heard § 87(2)(b) screaming her name and someone telling him to stay on the ground. § 87(2)(b) and her two daughters went to the hallway to investigate. § 87(2)(b) walked down the hallway and walked around the corner towards the elevators. Officers, identified through the investigation as PO Isaac Soberal and PO John Lane of Police Service Area 7, were standing by an individual, identified through investigation as § 87(2)(b) who was lying on the floor in handcuffs by the elevators. Additional officers, identified through investigation as PO Jean Carela and PO Brian Pastula of Police Service Area 7, were standing by § 87(2)(b) § 87(2)(b) described PO Carela as a white male who was 5'6" to 5'7" tall, had short black hair, appeared to be in his thirties, and was in uniform. § 87(2)(b) described PO Pastula as a white male who was about 5'9" tall, of medium build, had blonde hair and was in uniform.

§ 87(2)(b) was standing towards a wall. PO Carela held § 87(2)(b) s arms behind his back, though his hands were not in handcuffs. § 87(2)(b) asked why he was being arrested and PO Carela threw him to the ground and placed his knee against his lower back. § 87(2)(b) identified herself as § 87(2)(b) s aunt and asked what was happening. PO Carela said, "Get the fuck inside, get the fuck inside!" (**Allegation C**). PO Lane and PO Soberal told her that if she kept talking shit they would 'lock her up' (**Allegation D** and **Allegation E**).

§ 87(2)(b) and § 87(2)(b) turned towards the apartment. PO Carela and PO Pastula suddenly approached them after they had turned the corner in the hallway. § 87(2)(b) alleged that PO Carela grabbed her waist with both hands and slammed her against the wall next to the incinerator (**Allegation F**). § 87(2)(b) s lower right forearm struck the metal edge of a doorway on this wall. Her arm was bruised, and she later sought medical treatment at § 87(2)(b) for this injury. PO Carela then patted her torso and pants (**Allegation G**).

§ 87(2)(b) told PO Carela that he should not touch § 87(2)(b) in that fashion. PO Pastula then walked over to § 87(2)(b) and slammed him against the wall to the right of § 87(2)(b) § 87(2)(b) stood with his legs spread. PO Pastula kicked § 87(2)(b) legs further apart and began to search him by patting him all over his body and feeling inside his pockets. During this time, PO Lane and PO Soberal told PO Pastula and PO Carela to 'arrest her ass' because 'they keep talking shit' (**Allegation D** and **Allegation E**). § 87(2)(b) never said anything to PO Pastula and PO Carela while they were respectively frisking and searching her and § 87(2)(b).

PO Pastula turned to § 87(2)(b) and said, "Go get your fucking ID; go get your fucking ID now" (**Allegation H**). § 87(2)(b) and § 87(2)(b) entered their apartment. The front door remained open. It took § 87(2)(b) about five minutes to find her ID. She returned and handed it to PO Pastula. During her telephone statement to the CCRB (encl. 14), § 87(2)(b) stated that § 87(2)(b) was able to record the names and shield numbers of both PO Pastula and PO Carela. § 87(2)(b) closed her front door and § 87(2)(b) called Internal Affairs to file a complaint regarding the incident.

§ 87(2)(b) later went to § 87(2)(b) because she was concerned she had high blood pressure and her right forearm hurt and was swollen. According to emergency medical records prepared on § 87(2)(b) (encl. 45a – 45c), § 87(2)(b) complained of back pain and pain to her right elbow as a result of an assault. According to a result report prepared on § 87(2)(b) (encl. 46a – 46b), § 87(2)(b) stated that she felt well.

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) years old. He is a Hispanic male who is 5'6" tall, weighs 120 pounds and has brown hair and brown eyes. § 87(2)(b) was interviewed by Internal Affairs on March 11, 2008 (encl. 16). § 87(2)(b) provided a brief telephone statement on April 1, 2008 (encl. 17)

On March 10, 2008, at approximately 10:30 PM, § 87(2)(b) was in § 87(2)(b)'s residence, located at § 87(2)(b) in the Bronx. § 87(2)(b) frequently visits § 87(2)(b) and her family. On this particular evening, § 87(2)(b) had made arrangements to buy a cellular phone charger from an individual he is familiar with, § 87(2)(b). § 87(2)(b) met § 87(2)(b) in the hallway outside of § 87(2)(b)'s residence. § 87(2)(b) told § 87(2)(b) that he had forgotten the charger, but did have two phones that he could take a look at. § 87(2)(b) passed § 87(2)(b) one of the phones. § 87(2)(b) removed a twenty dollar bill from his person and offered this to § 87(2)(b). § 87(2)(b) refused, because the amount was insufficient.

Suddenly, five to six officers exited the stairwell and approached § 87(2)(b) and § 87(2)(b). § 87(2)(b) experienced a sudden tooth ache and grabbed his mouth. § 87(2)(b) has a variety of health problems. He is frequently sick, has high blood pressure, and has frequent tooth aches. The officers told § 87(2)(b) to "Spit it out! Spit it out!" Some of the officers began to dig in § 87(2)(b)'s mouth with their fingers. § 87(2)(b) was thrown to the ground.

§ 87(2)(b) placed his hands against the wall, as instructed, and asked what was happening. One of the officers picked him up and slammed him to the ground (**Allegation N**). This officer then placed his knee on § 87(2)(b)'s chest and grabbed his mouth because § 87(2)(b) had begun to call for § 87(2)(b). In his statement to Internal Affairs (encl. 16), § 87(2)(b) alleged that he was picked up by the neck and threatened with a baton. § 87(2)(b) later heard that § 87(2)(b) had exited her apartment during this time and an officer had cursed at and searched her. § 87(2)(b) explained that he did not see any of this due to where he was positioned in the hallway. § 87(2)(b) later informed him of what had transpired. Meanwhile, another officer drew his baton and struck § 87(2)(b) who was still lying on the ground, twice on the leg.

The officer who threw § 87(2)(b) to the ground then dragged him on the floor until he stood up. § 87(2)(b) asked why he was being arrested. The officer told him to 'shut the fuck up,' said he was not 'fucking stupid' (**Allegation O**) and stated that he knew § 87(2)(b) had sold crack and that crack was sold out of § 87(2)(b)'s residence. § 87(2)(b) heard a commotion in the section of the hallway near § 87(2)(b)'s residence. He heard someone say, 'Go get your fucking ID.' About five minutes later, § 87(2)(b) was escorted outside and transported to the precinct.

The investigation made the following attempts to obtain a formal statement from § 87(2)(b). On April 2, 2008, a contact letter was mailed to § 87(2)(b). Between April 1, 2008, and April 25, 2008, five calls were placed to § 87(2)(b). On April 21, 2008, an interview was scheduled with § 87(2)(b) for April 23, 2008. § 87(2)(b) failed to appear for this interview and a missed appointment letter was sent to his address. To date, § 87(2)(b) has failed to contact the investigation with regard to the incident.

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) years old. He is a Hispanic male who is 5'10" tall, weighs 200 pounds and has brown hair and brown eyes. § 87(2)(b) was interviewed by Internal Affairs on March 11, 2008 (encl. 19). § 87(2)(b) provided a partial telephone statement to the CCRB on April 1, 2008 (encl. 20).

On March 10, 2008, at approximately 10:30 PM, § 87(2)(b) met § 87(2)(b) on the § 87(2)(b) floor of § 87(2)(b) in the Bronx. § 87(2)(b) intended to sell § 87(2)(b) a cellular phone. During their transaction, five to six officers in uniform jumped out of a hallway. The officers said that § 87(2)(b) had given something to § 87(2)(b) and accused § 87(2)(b) of attempting to swallow something. § 87(2)(b) explained that he had only grabbed his mouth because he had a toothache. Two of the officers threw § 87(2)(b) to the ground (**Allegation N**). § 87(2)(b) was at the location for ten to fifteen minutes. § 87(2)(b) was later transported to § 87(2)(b) where x-rays revealed that he had not swallowed anything. Before additional information could be obtained from § 87(2)(b) he indicated that he no longer had time to speak with the investigator.

The investigation made the following attempts to obtain a formal statement from § 87(2)(b). Contact letters were mailed to § 87(2)(b) on April 2, 2008, and April 21, 2008. Between April 1, 2008, and April 22, 2008, six calls were placed to § 87(2)(b). An interview was scheduled with § 87(2)(b) for April 9, 2008. On this date, § 87(2)(b) failed to appear for this interview and a missed appointment letter was sent to his address. A second interview was scheduled with § 87(2)(b) for April 24, 2008. On this date, § 87(2)(b) failed to appear for his second scheduled appointment. As a result, no further attempts to contact him were made.

§ 87(2)(b)

§ 87(2)(b) is a Hispanic female who is § 87(2)(b) years old. § 87(2)(b) provided a brief telephone statement on April 21, 2008 (encl. 23).

On March 10, 2007, at approximately 10:30 PM, § 87(2)(b) was in her residence, located at § 87(2)(b) in the Bronx. Her cousin, § 87(2)(b) went into the hallway to get his cellular phone charger from a friend. After a short while, § 87(2)(b) heard a commotion in the hallway and heard § 87(2)(b) calling for § 87(2)(b). § 87(2)(b) went into the hallway. § 87(2)(b) and § 87(2)(b) followed her. § 87(2)(b) saw a number of officers standing in the hallway. The officers grabbed § 87(2)(b) by his shirt, threw him to the floor of the hallway and kned him in his side. Two of the officers used their batons to strike him on his body.

When § 87(2)(b) walked towards the officers hitting § 87(2)(b) they told her to 'get the fuck inside.' The officers then walked towards § 87(2)(b). One of the officers placed her against a wall, patted her along her body and felt inside her pockets. § 87(2)(b)'s arm was somehow bruised during this process. § 87(2)(b) walked into the hallway and saw the way the officer was searching § 87(2)(b). He told the officer he should not be touching his mother and the officer told him to 'shut the fuck up' or he would be arrested. The officer then threw him against the wall. The officer told him that if he did not let the officers do their job they would arrest him. The officer patted him along his body and felt inside his pockets.

The officers then let § 87(2)(b) and § 87(2)(b) go and told them to get inside the apartment. § 87(2)(b) and § 87(2)(b) complied. One of the officers told § 87(2)(b) to go get her 'fucking' ID. § 87(2)(b) retrieved it from the apartment. The officers then began to accuse them of having drugs inside the apartment and of flushing things down the toilet. The officers said that they would be watching them and then left the location. Throughout the incident, § 87(2)(b) never raised her voice.

§ 87(2)(b)

§ 87(2)(b) is a Hispanic female who is § 87(2)(b) years old. § 87(2)(b) provided a brief telephone statement on April 21, 2008 (encl. 24).

On March 10, 2008, at approximately 10:30 PM, § 87(2)(b) was inside her residence, located at § 87(2)(b) in the Bronx. § 87(2)(b) went into the hallway to get a cellular phone charger. After hearing a loud noise, § 87(2)(b) and § 87(2)(b) went into the hallway, where she saw a number of officers. § 87(2)(b) saw one officer kick § 87(2)(b) on the floor. When asked whether one of the officers hit § 87(2)(b) with a stick, § 87(2)(b) was prompted by § 87(2)(b) to reply that 'the short one had the stick.' § 87(2)(b) entered the hallway at some point and said something. § 87(2)(b) said that § 87(2)(b) cursed at a tall white officer after this officer cursed at him. Two officers placed both § 87(2)(b) and § 87(2)(b) against a wall and searched them. After the officers had concluded their search, one of the officers asked for § 87(2)(b)'s ID. § 87(2)(b) retrieved her ID. The officers examined it and then left the location.

§ 87(2)(b)

§ 87(2)(b) was interviewed by Internal Affairs at 2:30 AM on March 11, 2008 (encl. 22).

§ 87(2)(b) states that he was inside playing video games when he heard a commotion and saw that his little sisters were crying by the doorway entrance. § 87(2)(b) went out into the hallway to see what was going on and found his mother up against the wall while an officer searched her. § 87(2)(b) states that he went back inside the apartment; in attempt to lure § 87(2)(b) and § 87(2)(b) back inside because they were upset over what they were witnessing. § 87(2)(b) was not able to offer any further details on what occurred in the hallway because his time in the hallway was extremely limited.

Police Officer Statements:

PO Jean Carela

PO Jean Carela is § 87(2)(b) years old. He is a Hispanic male who is 5'9" tall, weighs 180 pounds and has brown hair and brown eyes. PO Carela is assigned to Police Service Area 7 and has been a member of the service for one year. PO Carela was interviewed at the CCRB on August 8, 2008 (encl. 31a – 31d). On the day of the incident, PO Carela worked from 6:00 PM to 2:35 PM. He was assigned to a footpost in the Mitchell Houses with PO Lane, PO Soberal and PO Pastula and was in uniform. PO Carela's memobook (encl. 28a – 28d) notes that at 11:00 PM, two arrests were effected inside § 87(2)(b) in the Bronx

Police Reports

PO Carela prepared a stop, question and frisk report (encl. 29a – 29d) for § 87(2)(b) on March 10, 2008, at 11:20 PM. The report noted that § 87(2)(b) had been observed for one minute prior to the stop, which occurred in § 87(2)(b) in the Bronx. The stop lasted three minutes and was based on suspicion of criminal possession of a weapon. Actions indicative of engaging in a drug transaction, a suspicious bulge, and other reasonable suspicion of criminal activity led to the stop. PO Carela reported that he explained the stop and that one other person was stopped in addition to § 87(2)(b). Force was reportedly used against § 87(2)(b) when PO Carela placed his hands on her. § 87(2)(b) was frisked because of PO Carela's knowledge of § 87(2)(b)'s prior criminal behavior, a suspicious bulge, and other reasonable suspicion of a weapon. § 87(2)(b) was also searched because of a hard object. No weapon or contraband was recovered on her person. Additional circumstances leading to the stop were based on the following: the area had a high incident of the reported offence, the fact that § 87(2)(b) was associating with persons known for their criminal activity and her proximity to a crime location.

PO Carela prepared a stop, question and frisk report (encl. 30a – 30d) for § 87(2)(b) on March 10, 2008, at 11:20 PM. The report noted that § 87(2)(b) had been observed for one minute prior to the stop, which occurred in the hallway of § 87(2)(b) in the Bronx. The stop lasted three minutes and was based on suspicion of criminal possession of a weapon. Actions indicative of engaging in a drug transaction, actions indicative of acting as a lookout, other reasonable suspicion of criminal activity led to the stop. PO Carela reported that he explained the stop and that one other person in addition to § 87(2)(b) was stopped. Force was reportedly used against § 87(2)(b) when PO Carela placed his hands on him. § 87(2)(b) was frisked because of PO Carela's knowledge of § 87(2)(b)'s prior criminal behavior, a suspicious bulge and other reasonable suspicion of a weapon. § 87(2)(b) was searched because of a hard object. No weapons or contraband was found on § 87(2)(b). Additional circumstances leading to the stop were based on the following: the area had a high incident of the reported offence, the fact that § 87(2)(b) was associating with persons known for their criminal activity and his proximity to a crime location.

CCRB Statement.

On March 10, 2008, at approximately 10:30 PM, PO Carela and his partners, PO Lane, PO Soberal and PO Pastula, were in the stairwell outside of the § 87(2)(b) floor inside § 87(2)(b). PO Carela explained that he and his partners have been conducting an ongoing investigation into narcotics activity from within § 87(2)(b) of § 87(2)(b) in the Bronx. § 87(2)(b) and § 87(2)(b) who reside within this apartment, are known crack dealers. PO Carela is familiar with them from previous encounters, knows them by sight, and referred to them by name. PO Carela and his partners began waiting on the stairwell of the § 87(2)(b) floor, which overlooks the elevator and hallway leading to § 87(2)(b)'s apartment. When PO Carela and his partners observed a drug transaction, they would exit the hallway, conduct an

investigation and effect an arrest if possible. In the month preceding the incident, PO Carela and his partners effected a total of fifteen arrests in this fashion. With each arrest, PO Carela and his partners amassed more information regarding § 87(2)(b)'s methods of operation by speaking with the arrestees who had purchased narcotics from § 87(2)(b) and members of her family.

On the day of the incident, PO Carela and his partners had been waiting in the § 87(2)(b) floor hallway for about half an hour to forty-five minutes. An individual, subsequently identified through his arrest as § 87(2)(b), walked towards the elevator. PO Carela was familiar with § 87(2)(b) by sight, knew him to be § 87(2)(b)'s nephew, and knew also that she used § 87(2)(b) as a middle-man to carry narcotics from her apartment to various buyers near the elevators. § 87(2)(b) stood in front of the elevator. Another individual, identified through his arrest as § 87(2)(b), exited the elevator. PO Carela was also familiar with § 87(2)(b) from prior arrests, effected for possession of a controlled substance. PO Carela and one of his partners, possibly PO Lane, were standing directly in front of the stairwell door. The door is metal and there is a 10" by 10" window at eye level. PO Carela observed § 87(2)(b) hand two glassine envelopes to § 87(2)(b) who handed him U.S. currency. § 87(2)(b) and § 87(2)(b) were positioned such that PO Carela was looking at their sides.

PO Carela and his partners opened the stairwell door and rushed into the hallway. § 87(2)(b) immediately put his hand to his mouth and swallowed the glassine envelopes while § 87(2)(b) ran down the hallway in the direction of § 87(2)(b)'s apartment. Two of PO Carela's partners apprehended § 87(2)(b) while PO Carela and possibly PO Sobral followed after § 87(2)(b). They apprehended him in the middle of the hallway near § 87(2)(b)'s apartment. PO Carela was the first officer who reached § 87(2)(b). PO Carela told him to stop. PO Carela and possibly PO Lane then handcuffed § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) exited their residence. They immediately walked towards PO Carela and his partners and began screaming and cursing at the officers. They were asking the officers what § 87(2)(b) had done, why he was being arrested and asserting that § 87(2)(b) had done nothing wrong. Both § 87(2)(b) and § 87(2)(b) were standing within two feet of PO Carela and his partners. PO Carela and all three of his partners instructed § 87(2)(b) and § 87(2)(b) to stand back. § 87(2)(b) and § 87(2)(b) did not respond to any of these instructions. PO Carela held his hands raised in front of him as he instructed § 87(2)(b) and § 87(2)(b) to step back. Both § 87(2)(b) and § 87(2)(b) were waving their arms in the air as they gesticulated in the direction of the officers in an aggressive fashion. Had PO Carela stepped forward, their arms would have collided with his upper torso. PO Carela did not come into physical contact with § 87(2)(b) and § 87(2)(b) at this time.

PO Carela continued to direct them to stand back, get back and return to their apartment. His tone of voice increased with each command. PO Carela said that he may have said, "Stay the fuck back" or "stay the fuck over there" in an attempt to gain compliance by using more forceful language and a firmer voice. The situation, by this time, was extremely stressful. PO Carela said that this was the only time in which he directed profanity towards § 87(2)(b) and § 87(2)(b). PO Carela stated that the use of profanity was not designed to degrade or insult § 87(2)(b) or § 87(2)(b).

When § 87(2)(b) and § 87(2)(b) did not comply, PO Carela and his partners informed them that they could be arrested for interfering with § 87(2)(b)'s arrest. PO Carela explained that both § 87(2)(b) and § 87(2)(b) could have been arrested for obstruction of governmental administration, disorderly conduct and possibly intended assault for the manner in which § 87(2)(b) and § 87(2)(b) were flailing their arms.

PO Carela had looked up § 87(2)(b)'s prior arrest history during their investigation into the drug activity within her residence. PO Carela discovered that § 87(2)(b) had been arrested on violent felony charges in the past, and also had an open bench warrant. PO Carela had also been informed by the individuals who had purchased narcotics from § 87(2)(b) that § 87(2)(b) was typically armed with razors, which she secreted in her waistband. At the time of the incident, PO Carela suspected that § 87(2)(b) was likely armed with some sort of weapon. Due to the chaotic nature of the incident, PO Carela did not have time to visually inspect § 87(2)(b) to see whether she had any suspicious bulges underneath her clothing. At this time, PO Carela feared for his safety due to the nature of the incident and his knowledge of her prior offenses and typical behavior.

Eventually, the officers were able to handcuff § 87(2)(b). Two of PO Carela's partners remained with § 87(2)(b) while PO Carela and one of his partners stopped § 87(2)(b) and § 87(2)(b). PO Carela could not recall which of his partners remained with § 87(2)(b) but did recall that all four officers were initially engaged with § 87(2)(b) because she represented such a threat. PO Carela approached § 87(2)(b) and instructed her to stand against the wall of the hallway. § 87(2)(b) complied. PO Carela grasped her upper shoulders with both hands to maneuver her against the wall. As § 87(2)(b) faced the wall, PO Carela frisked her. He patted her waistline, the front and back pockets of her pants and down to her ankles.

During the frisk, PO Carela felt the inside of § 87(2)(b)'s waistline with his finger to determine whether she was armed with a razor. PO Carela saw that some sort of object was in one of § 87(2)(b)'s rear pockets, which was the same shape as a razor. PO Carela patted this pocket and confirmed that the object was the shape of a razor. He then felt inside this pocket and determined that the object was a key without removing it from § 87(2)(b)'s pocket. This was the only pocket which PO Carela felt inside. PO Carela prepared a corresponding stop, question and frisk report for § 87(2)(b). Under the circumstances which led to the stop, PO Carela had noted 'other reasonable suspicion of criminal activity,' but had not specified what this was on the report. PO Carela explained that he had checked this box because § 87(2)(b) had conspired to protect § 87(2)(b) by repeatedly declaring that he had done nothing wrong. PO Carela also stated that he should have noted in the report that § 87(2)(b) had failed to comply with the officers' instructions. No contraband was discovered as a result of the frisk or search of § 87(2)(b).

While PO Carela frisked § 87(2)(b), one of his partners frisked § 87(2)(b). PO Carela could not recall which of his partners frisked § 87(2)(b). § 87(2)(b) was placed against the same wall as § 87(2)(b). Because he was focused on § 87(2)(b), PO Carela did not recall the exact manner in which § 87(2)(b) was placed against the wall. PO Carela assumed that § 87(2)(b) resisted in some way. PO Carela has stopped § 87(2)(b) in the past and whenever any officer attempts to frisk him, he stiffens or bucks his upper body and arms away from the officers. PO Carela did not see his partner search § 87(2)(b). PO Carela did not see his partner kick § 87(2)(b) legs further apart.

After he concluded the frisk and search of § 87(2)(b), PO Carela instructed § 87(2)(b) to return to her apartment and she complied. § 87(2)(b) stood in her doorway. PO Carela knew that he and his partners had requested § 87(2)(b)'s ID, but he did not recall whether she ever provided an ID to them. PO Carela knew that she did not have her ID on her person, and thought that she may have retrieved it after she was instructed to return to her residence. In the doorway, § 87(2)(b) began to make threatening statements to PO Pastula. She said that she 'had him,' 'had his number' and stated that the situation was not over.

When § 87(2)(b) entered her apartment, PO Carela turned to § 87(2)(b). PO Carela suspected that § 87(2)(b) was armed. Because PO Carela knew that § 87(2)(b) frequently carried razors and because she had engaged her entire family in her drug business, PO Carela assumed that § 87(2)(b) was carrying a razor or weapon of some sort as well. PO Carela also observed that there was some sort of object in § 87(2)(b)'s rear pocket. Because PO Carela did not fully witness the frisk that his partner had conducted, and because § 87(2)(b) was still within PO Carela's zone of safety, PO Carela wanted to frisk § 87(2)(b) himself to ensure that he was not armed. PO Carela quickly patted § 87(2)(b) down starting from his waist. PO Carela did not feel anything which appeared to be a weapon. The hard object in § 87(2)(b)'s rear pocket felt like a number of keys and a lighter, so PO Carela did not feel inside the pocket. PO Carela then instructed § 87(2)(b) to return to his apartment and he complied.

§ 87(2)(b) asked for PO Pastula's name and shield number at this time. PO Pastula provided this information. PO Pastula never said, "It's not like you can do shit with it." § 87(2)(b) did not request PO Carela's name or shield number. Because PO Carela had stopped § 87(2)(b) several times in the past, § 87(2)(b) already knew PO Carela's name. PO Carela never volunteered his name or shield number to § 87(2)(b). § 87(2)(b), § 87(2)(b) and § 87(2)(b) then fully entered their apartment and shut the door. PO Carela and his partners escorted § 87(2)(b) and § 87(2)(b) out of the building. PO Carela explained that they did not arrest § 87(2)(b) on the open bench warrant on the day of the incident because they were mostly concerned with removing § 87(2)(b) and § 87(2)(b) from the scene. § 87(2)(b) was transported to the hospital, because he had swallowed narcotics, and later to the precinct where both arrests were processed.

PO Carela knew that PO Pastula had also prepared a stop, question and frisk report for § 87(2)(b) PO Carela explained that because both he and PO Pastula had interacted with her, two reports were prepared to document their actions with respect to § 87(2)(b) PO Carela did not know why only one report was prepared for § 87(2)(b)

PO Brian Pastula

PO Brian Pastula is § 87(2)(b) years old. He is a white male who is 6'1" tall, weighs 180 pounds and has brown hair and brown eyes. PO Pastula is assigned to Police Service Area 7 and has been a member of the service for one year. PO Pastula was interviewed at the CCRB on August 1, 2008 (encl. 27a – 27c). On the day of the incident, PO Pastula was assigned to patrol and worked with PO Soberal from 6:00 PM to 2:35 AM in uniform. PO Pastula's memobook (encl. 25a – 25c) notes that he conducted a vertical at § 87(2)(b) in the Bronx at 11:00 PM. At 11:10 PM, two arrests were effected by PO Soberal. § 87(2)(b) was stopped and questioned and a corresponding report was prepared for suspicion of criminal possession of a controlled substance.

Police Reports

PO Pastula prepared a stop, question and frisk report (encl. 26a – 26d) for § 87(2)(b) on March 10, 2008, at 11:05 PM. The report noted that § 87(2)(b) had been observed for two minutes prior to the stop, which occurred in § 87(2)(b) in the Bronx. The stop lasted five minutes and was based on suspicion of criminal sale of a controlled substance. Actions indicative of engaging in a drug transaction led to the stop. PO Pastula reported that he explained the stop and no other people were stopped, questioned or frisked. PO Pastula noted that physical force was used when hands were placed on § 87(2)(b) PO Pastula reported that § 87(2)(b) was frisked when her refusal to comply with the officers directions led to a reasonable fear for his safety. § 87(2)(b) was not searched. No contraband was found on her person. § 87(2)(b) was noted to be cooperative, though she remarked that the officers needed a warrant to do this. Additional circumstances leading to the stop were based on the following: the area had a high incident of the reported offence, the time of the stop, the fact that § 87(2)(b) was associating with persons known for their criminal activity and her proximity to a crime location.

CCRB Statement

On March 10, 2008, at approximately 11:00 PM, PO Pastula and his partners conducted a vertical inside of § 87(2)(b) in the Bronx. When they reached the § 87(2)(b) floor, they proceeded to wait for about half an hour. PO Pastula's explanation for the investigation he and his partners were conducting on this floor, the manner in which they were conducting the investigation and the information they had obtained as a result of that investigation was consistent with that provided by PO Carela's testimony. PO Pastula is also familiar with § 87(2)(b) and § 87(2)(b) from previous encounters, knows them by sight, and referred to them by name.

On the day of the incident, PO Pastula was standing behind PO Carela and either PO Lane or PO Soberal. PO Pastula explained that the stairwell door has a window which is only large enough for two officers to look through. From where he was standing, he could not see into the hallway on the § 87(2)(b) floor. PO Pastula's partners observed two individuals, later identified through their arrests as § 87(2)(b) and § 87(2)(b) engage in a drug transaction. PO Pastula's partners communicated to him that a drug transaction had been made. PO Pastula later learned that § 87(2)(b) had handed § 87(2)(b) the controlled substance.

PO Pastula and his partners immediately exited the stairwell. § 87(2)(b) was standing about two away from PO Pastula by the elevators. § 87(2)(b) put his hand to his mouth and successfully swallowed what PO Pastula knew to be narcotics. Following his arrest, § 87(2)(b) admitted to PO Pastula that he had swallowed three bags of cocaine. Upon exiting the stairwell, PO Pastula grasped § 87(2)(b) and brought him to the ground. PO Pastula did not recall who assisted him in doing so. § 87(2)(b) attempted to evade the officers by running down the hallway. § 87(2)(b) was apprehended in the corner of the hallway. PO Pastula was not sure whether he was apprehended within his line of sight. PO Pastula did not recall who apprehended § 87(2)(b)

PO Pastula handcuffed § 87(2)(b) and went to assist his partners in restraining § 87(2)(b). Within seconds of apprehending § 87(2)(b) and § 87(2)(b) exited her apartment. § 87(2)(b) immediately began to scream and curse at the officers. § 87(2)(b) asked why the officers were arresting § 87(2)(b) who was her nephew, and stated that he had not done anything wrong. § 87(2)(b) repeatedly said that “this is bullshit” and continued to ask why he was being arrested. § 87(2)(b) was within a foot from § 87(2)(b) and the officers. § 87(2)(b) exited the apartment behind § 87(2)(b) and echoed her statements while standing next to her. § 87(2)(b) appeared angry, which was reflected in his tone of voice.

PO Pastula stood in front of § 87(2)(b) and repeatedly instructed her to back up and get back into her apartment. He repeated these instructions five to ten times, and his tone of voice grew in volume each time he issued a command. PO Pastula explained that § 87(2)(b) is a known violent offender. He explained that he knew she had been arrested in the past for a felony charge of reckless endangerment. In PO Pastula’s experience, this charge is generated when a suspect fires a weapon and misses the victim. Due to the nature of the incident and his knowledge of her prior arrests, PO Pastula feared for his safety.

PO Pastula explained that the situation was extremely stressful. PO Pastula admitted that when § 87(2)(b) did not comply with his initial commands he may have stated, “Get the fuck back” and later may have stated, “God damn it, get the fuck back.” This use of profanity was a result of the stressful nature of the situation and was not used to speak to § 87(2)(b) in a derogatory fashion. PO Pastula explained that, much like there are escalating scales of force, there are escalating scales of verbal commands and he escalated up the scale when § 87(2)(b) would not comply with his initial instructions. PO Pastula never heard any of his partners direct profanity towards § 87(2)(b) or § 87(2)(b). Aside from possibly stating ‘get the fuck back’ and ‘god damn it, get the fuck back,’ PO Pastula never directed any profanity at § 87(2)(b) or § 87(2)(b).

PO Pastula explained that § 87(2)(b) could have been arrested for obstructing governmental administration for interfering with the officers attempts to arrest § 87(2)(b) and could also have been arrested for disorderly conduct. PO Pastula informed § 87(2)(b) on numerous occasions that she could be arrested. PO Pastula did not recall whether any of his partners similarly apprised § 87(2)(b) of the fact that he could be arrested. § 87(2)(b) continued to yell at PO Pastula about the way in which PO Pastula was speaking to § 87(2)(b). PO Pastula also informed § 87(2)(b) that he could be arrested, and explained at the time of his interview that § 87(2)(b) could have been arrested for the same offenses as § 87(2)(b).

PO Pastula stated that he did come into physical contact with § 87(2)(b) on one occasion. PO Pastula extended either one or two of his hands in front of him and pushed § 87(2)(b) on his chest against the wall around the corner from the stairwell and elevators. He did so when § 87(2)(b) would not comply with his instructions to stay back and continued to interfere with the officers attempts to arrest § 87(2)(b). PO Pastula never kicked § 87(2)(b). His use of force did not exceed that which was necessary to keeping § 87(2)(b) away from the scene of § 87(2)(b)’s arrest. § 87(2)(b) was never placed against a wall in the hallway. § 87(2)(b) never complained of any injuries.

§ 87(2)(b) also never complied with any of PO Pastula’s instructions. PO Pastula recalled that he held one of his hands up in front of him and stated that his hand may have come into contact with § 87(2)(b) though he did not specifically recall physically touching § 87(2)(b). PO Pastula later prepared a stop, question and frisk report for § 87(2)(b) as a result of his interaction with her. PO Pastula explained at the time of his interview that, in his opinion, § 87(2)(b) was free to leave – which was all PO Pastula had wanted her to do during the encounter. PO Pastula generated the stop, question and frisk report to document his interaction with her. It was generated for suspicion of criminal possession of a controlled substance, because PO Pastula knew § 87(2)(b) sold crack from her residence. It was pointed out that this report noted that physical force had been used when hands were placed on § 87(2)(b). PO Pastula again stated that he did not recall coming into physical contact with § 87(2)(b) but explained that the box may have been checked in reference to the fact that he held his hand raised towards her during their interaction. PO Pastula stated that he may have pushed § 87(2)(b) back at one point, but did not specifically recall doing so.

PO Pastula began to ask § 87(2)(b) whether she had any crack on her person. § 87(2)(b) replied negatively and stated that the officers could come into her apartment to search if they so desired. PO Pastula said, “Oh,

we came come into search? Okay let's go.” § 87(2)(b) retracted her statement and told the officers they would need a warrant to search her apartment, which PO Pastula documented on the report under § 87(2)(b)'s comments. PO Pastula stated that he never frisked § 87(2)(b). When it was pointed out that the stop, question and frisk report he had prepared for § 87(2)(b) noted that she had been frisked, PO Pastula again stated that he had no memory of frisking § 87(2)(b). He pointed out that he had checked the box which stated, “refused to comply with officers’ instructions.” PO Pastula checked this box to additionally document the fact that § 87(2)(b) refused to comply with his numerous instructions to get back or return to her apartment.

PO Carela and PO Soberal were with PO Pastula in the hallway with § 87(2)(b). PO Soberal also gave verbal commands to § 87(2)(b). PO Pastula did not recall what PO Lane was doing throughout the incident. PO Carela also generated a stop, question and frisk report for § 87(2)(b). PO Pastula knew that there were two reports prepared for § 87(2)(b) but did not know why PO Carela prepared his report. PO Pastula could not testify to what PO Carela noted in this report. It was explained that the report PO Carela generated was for criminal suspicion of a weapon. PO Pastula stated that he always suspected § 87(2)(b) had a weapon on her person, but did not recall seeing anything on her person which looked like or could have been a weapon. PO Pastula never saw PO Carela come into physical contact with § 87(2)(b). He never saw PO Carela frisk or search § 87(2)(b). PO Pastula did not recall whether § 87(2)(b) had an ID with her at the time of the incident, though he may have requested one from her.

PO Pastula and his partners did not want to complicate the issue by arresting § 87(2)(b). PO Pastula explained that since he and his partners were in the process of building a case against her, they did not want to compromise their investigation. At this point, PO Pastula and his partners were concerned with removing § 87(2)(b) and § 87(2)(b) from the hallway. Eventually, § 87(2)(b) and § 87(2)(b) complied with the officers’ instructions to return to their apartment. PO Pastula and his partners then removed § 87(2)(b) and § 87(2)(b) from the hallway. PO Pastula returned with his partners to his command to assist in processing the arrest. The incident lasted about five minutes.

PO Isaac Soberal

PO Isaac Soberal is § 87(2)(b) years old. He is a white Hispanic male who is 6’ tall, weighs 225 pounds and has brown hair and brown eyes. PO Soberal is assigned to Police Service Area 7 and has been a member of the service for one year. PO Soberal was interviewed at the CCRB on June 5, 2008 (encl. 40a – 40c). On the day of the incident, PO Soberal was assigned to a foot post in the Mitchell Houses with PO Pastula. He worked from 6:00 PM to 2:35 AM in uniform. PO Soberal’s memobook (encl. 33a – 33c) notes that, at 11:30 PM, PO Soberal conducted a vertical of § 87(2)(b). At 11:18 PM, § 87(2)(b) and § 87(2)(b) were arrested on the § 87(2)(b) floor. he observed an exchange of U.S. Currency for a small glassine envelope and one of the suspects, § 87(2)(b) swallowed narcotics.

Police Reports

PO Soberal prepared a stop, question and frisk report (encl. 34a – 34d) for § 87(2)(b) on March 10, 2008, at 9:00 PM. § 87(2)(b) was stopped for suspicion of criminal possession of a controlled substance. Actions indicative of engaging in a drug transaction and furtive movements led to the stop. PO Soberal used physical force against § 87(2)(b) when he placed his hands on him, brought § 87(2)(b) to the ground and handcuffed him. § 87(2)(b) was arrested for § 87(2)(b) and was searched incident to his arrest. He was frisked on the basis of furtive movements and when his refusal to comply led PO Soberal to fear for his safety.

PO Soberal prepared an arrest report (encl. 35a – 35b) and complaint report (encl. 36a – 36b) for § 87(2)(b) and an arrest report (encl. 38a – 38b) and complaint report (encl. 39a – 39b) for § 87(2)(b) on March 10, 2008. § 87(2)(b) and § 87(2)(b) were arrested inside § 87(2)(b) in the Bronx at 11:10 PM. PO Soberal reported that, during a vertical patrol, he observed § 87(2)(b) give § 87(2)(b) U.S. currency in exchange for a small glassine envelope. Upon approach, § 87(2)(b) inserted said glassine envelope into his mouth and swallowed it. One bag of marijuana was subsequently discovered on § 87(2)(b).

PO Soberal prepared a stop, question and frisk report (encl. 37a – 37d) for § 87(2)(b) on March 10, 2008, at 9:00 PM. § 87(2)(b) was stopped for suspicion of criminal possession of a controlled substance. Actions indicative of engaging in a drug transaction and furtive movements led to the stop. PO Soberal used physical force against § 87(2)(b) by placing his hands on him, bringing him to the ground, handcuffing him and placing him against a wall. § 87(2)(b) was arrested for § 87(2)(b). He was frisked when his refusal to comply led PO Soberal to fear for his safety. He was frisked incident to his lawful arrest and one bag of marijuana was discovered in his right pants pocket.

CCRB Statement

On March 10, 2008, at approximately 10:27 PM, PO Soberal and his partners, PO Pastula, PO Carela and PO Lane, conducted a routine vertical inside § 87(2)(b) in the Bronx. They stopped in the stairwell of the § 87(2)(b) floor. PO Soberal's explanation for the investigation he and his partners were conducting on this floor, the manner in which they were conducting the investigation and the information they had obtained as a result of that investigation was consistent with that provided by PO Carela's testimony. PO Soberal is also familiar with § 87(2)(b) and § 87(2)(b) both of whom he had stopped on previous occasions.

On the day of the incident, PO Soberal and his partners had been waiting on the § 87(2)(b) floor for about thirty minutes to an hour. PO Soberal and PO Carela were standing immediately in front of the stairwell door. PO Pastula and PO Lane were behind them. PO Soberal saw an individual, subsequently identified through his arrest as § 87(2)(b) walk from around the corner of the L-shaped hallway. § 87(2)(b) began pacing in front of the elevator. After a few minutes, the elevator doors opened and § 87(2)(b) stepped into the hallway. PO Soberal is familiar with § 87(2)(b) and knows him to be a crack addict who also sells heroin. § 87(2)(b) and § 87(2)(b) were standing such that PO Soberal and PO Carela were looking at the sides of their bodies as they faced each other. § 87(2)(b) was standing to the left and § 87(2)(b) was standing to the right. They were about three or four feet away from the officers.

§ 87(2)(b) extended his arm towards § 87(2)(b) and handed him U.S. currency. § 87(2)(b) in turn handed § 87(2)(b) a small, blue glassine envelope which PO Soberal knew to be crack cocaine based on his knowledge and prior experience as an officer. PO Carela said, "He's serving him, he's serving him." The officers then exited the stairwell. § 87(2)(b) immediately put one hand to his mouth and swallowed the envelope. PO Carela was the first to exit the stairwell and he went towards § 87(2)(b) who ran down the hallway. PO Soberal followed after § 87(2)(b) and PO Carela, who turned the corner towards § 87(2)(b). At this point, PO Soberal could no longer see § 87(2)(b) and did not see what PO Lane and PO Pastula did to restrain him.

PO Carela grabbed § 87(2)(b)'s arms and pulled him to the floor from the back of his shoulders. PO Carela and PO Soberal handcuffed § 87(2)(b) who did not physically resist. Once handcuffed, § 87(2)(b) began calling for his aunt. Ten to fifteen seconds later, § 87(2)(b) and § 87(2)(b) exited § 87(2)(b). The apartment door was about fifteen feet from where § 87(2)(b) was handcuffed. At some point, § 87(2)(b) was brought back to the elevator door. PO Soberal could not recall whether § 87(2)(b) was brought to the elevator door before or after § 87(2)(b) and § 87(2)(b) exited their apartment and did not know whether § 87(2)(b) and § 87(2)(b) exited at the same time.

PO Soberal and PO Lane stayed with § 87(2)(b) and § 87(2)(b) by the elevators. PO Soberal could not see § 87(2)(b). PO Pastula or PO Carela, who were past the bend in the hallway. § 87(2)(b) and § 87(2)(b) were screaming that § 87(2)(b) had not done anything and repeatedly asked why he was being arrested. PO Pastula and PO Carela replied that § 87(2)(b) and § 87(2)(b) could not interfere with the arrest or they themselves would be arrested. PO Pastula and PO Carela continued to instruct § 87(2)(b) and § 87(2)(b) to return to their apartment. PO Soberal never heard PO Pastula or PO Carela direct profanity towards § 87(2)(b) or § 87(2)(b). PO Soberal never used any profanity. None of the officers ever said, "Arrest her ass."

PO Soberal and PO Lane conducted a routine search of § 87(2)(b) and § 87(2)(b). During this time, the verbal altercation between § 87(2)(b), PO Pastula and PO Carela did not deescalate. After about a minute, PO Soberal walked back towards PO Pastula and PO Carela. When PO Soberal walked around the corner, he saw PO Pastula and PO Carela standing in the middle of the hallway. § 87(2)(b) and § 87(2)(b) were behind them. § 87(2)(b) and § 87(2)(b) kept trying to step past PO Pastula and PO Carela towards the direction of § 87(2)(b). PO Soberal did not see § 87(2)(b) or § 87(2)(b) frisked or searched during the incident. PO Soberal never saw any officers use any physical force against § 87(2)(b) or § 87(2)(b).

PO Soberal, PO Carela and PO Pastula continued to tell § 87(2)(b) and § 87(2)(b) that they could not come towards a lawful arrest or they would be arrested. PO Soberal explained at the time of this interview that § 87(2)(b) and § 87(2)(b) could have been arrested for obstructing governmental administration for this reason. PO Soberal, PO Carela and PO Pastula continued to speak with § 87(2)(b) and § 87(2)(b) for about five minutes. § 87(2)(b) never complained of being injured in any way. PO Soberal did not really recall how the incident with § 87(2)(b) and § 87(2)(b) concluded itself. At some point, all four officers went down the elevators with § 87(2)(b) and § 87(2)(b). PO Soberal knew that § 87(2)(b) had requested PO Carela and PO Pastula's shield numbers. PO Soberal did not know when § 87(2)(b) began to request this information and did not know whether PO Carela and PO Pastula provided this information. PO Soberal never heard an officer explicitly refuse to provide this information. § 87(2)(b) never requested PO Soberal's shield number.

PO Soberal did not prepare any reports as far as § 87(2)(b) and § 87(2)(b) were concerned, though he recalled that either PO Pastula or PO Carela prepared a stop, question and frisk report for these individuals. When asked why two different reports had been prepared for § 87(2)(b), PO Soberal said that he assumed this to be miscommunication on the part of the officers. PO Soberal could not speak to why a report would have been prepared on suspicion of criminal sale of a controlled substance and another on suspicion of criminal possession of a weapon. PO Soberal said that, in cases involving narcotics, there is always a possibility that the subject may have a weapon. PO Soberal did not witness § 87(2)(b) and § 87(2)(b) initial interaction with PO Carela and PO Pastula, and thus could not comment on what these officers may have witnessed which led them to prepare these reports.

PO Soberal called Sgt. Portelli to verify the arrest. PO Soberal did not recall whether Sgt. Portelli met them inside or outside of the building. PO Soberal returned to the Police Service Area 7 stationhouse with § 87(2)(b). § 87(2)(b) was transported to a hospital and then transported to the stationhouse. At the stationhouse, PO Soberal asked § 87(2)(b) why he had swallowed the envelope. § 87(2)(b) replied that he had put his hand to his mouth because his tooth hurt. § 87(2)(b) later admitted to swallowing the envelope.

PO John Lane

PO John Lane is § 87(2)(b) years old. He is a white male who is 5'11" tall, weighs 180 pounds and has blonde hair and blue eyes. PO Lane is assigned to Police Service Area 7 and has been a member of the service for one year. PO Lane was interviewed at the CCRB on July 15, 2008 (encl. 42a – 42b). On the day of the incident, PO Lane worked from 6:00 PM to 2:35 AM with PO Carela. He was in uniform and assigned to a footpost in the Mitchell Houses. PO Lane's memobook (encl. 41a – 41c) notes that PO Soberal effected two arrests at 11:15 PM.

CCRB Statement

On March 10, 2008, at approximately 10:30 PM, PO Lane and his partners, PO Carela, PO Soberal and PO Pastula were in the stairwell of the § 87(2)(b) Floor in § 87(2)(b) in the Bronx. PO Lane explained that there is heavy drug traffic on this floor which originates primarily from § 87(2)(b). PO Pastula observed a hand to hand transaction through the window of the door leading into the § 87(2)(b) Floor. This window looks out onto the portion of the hallway next to the elevators. PO Lane did not recall who was standing next to PO Pastula. PO Lane was behind PO Pastula and did not see the hand to hand transaction.

PO Lane's partners entered the hallway with the intention of arresting the individuals who had engaged in a drug transaction.

PO Lane was the last officer to enter the hallway. He observed two males, identified through their arrest as § 87(2)(b) and § 87(2)(b) handcuffed and lying on the ground by the elevators. PO Lane went to § 87(2)(b) and began to conduct a field search for weapons and contraband. This search occupied his attention and, throughout the incident, he was only vaguely aware of where his partners were and what they were doing. PO Lane never left § 87(2)(b) side. PO Lane did not recall whether one of his partners remained with § 87(2)(b) during the incident.

As a result of the arrest, an individual PO Lane knows as § 87(2)(b) came into the hallway. § 87(2)(b) indicated that she was familiar with either § 87(2)(b) or § 87(2)(b). PO Lane did not recall whether § 87(2)(b) said or did anything in addition to this comment. PO Pastula repeatedly instructed § 87(2)(b) to 'get back.' PO Lane heard yelling, though he could not recall what was specifically said. There may have been additional individuals in the hallway, but PO Lane only specifically recalled seeing § 87(2)(b). PO Lane did not recall whether anyone did or did not comply with PO Pastula's instructions. PO Lane was presented with a photograph of § 87(2)(b). PO Lane recognized § 87(2)(b) and knows that he lives in § 87(2)(b) but he did not recall seeing § 87(2)(b) in the hallway on the day of the incident. PO Lane did not hear any of his partners talking about § 87(2)(b) and was never apprised of the fact that § 87(2)(b) had been on the § 87(2)(b) Floor during the incident.

PO Lane did not recall his partners apprising anyone that they could be arrested. PO Lane said that, had someone refused to comply with PO Pastula's instruction to 'get back,' they could theoretically have been arrested for obstruction. PO Lane never had any verbal interaction with a civilian other than § 87(2)(b) and § 87(2)(b). PO Lane did not issue any verbal commands to anyone. PO Lane did not observe any of his partners come into physical contact with anyone. There was never a time in which PO Lane could not see his partners. PO Lane said that his partners may have gone to other areas of the hallway, but PO Lane did not recall whether this happened because he was focused on § 87(2)(b). Neither PO Lane nor any of his partners ever directed any profanity towards anyone. PO Lane did not see his partners frisk or search anyone. PO Lane was informed that a stop, question and frisk report had been prepared for § 87(2)(b) and § 87(2)(b) for suspicion of criminal possession of a weapon. PO Lane said that there was nothing about § 87(2)(b) from what he saw, which indicated that she possessed a weapon.

PO Lane was in the hallway for about two to three minutes. He and his partners then removed § 87(2)(b) and § 87(2)(b) from the § 87(2)(b) Floor via the elevator and escorted them outside, where Sgt. Portelli verified their arrests. PO Lane never saw Sgt. Portelli on the thirteen floor. PO Pastula and PO Carela never apprised PO Lane of what had transpired on the § 87(2)(b) Floor with respect to their interaction with § 87(2)(b).

Sgt. Mark Portelli

Sgt. Mark Portelli is § 87(2)(b) years old. He is a white male who is 5'9" tall, weighs 220 pounds and has black hair and brown eyes. Sgt. Portelli is assigned to Police Service Area 7 and has been a member of the service for seven years. Sgt. Portelli was interviewed at the CCRB on May 30, 2008 (encl. 44a – 44b). On the day of the incident, Sgt. Portelli worked from 5:50 PM to 2:47 AM in uniform with PO Mclear and was assigned to a marked police van. Sgt. Portelli was the assigned impact supervisor. There were no entries in his memobook (encl. 43a – 43c) pertaining to the incident.

CCRB Statement

On March 10, 2008, at approximately 10:30 PM, Sgt. Portelli responded to § 87(2)(b) to verify an arrest effected by officers assigned to impact. Sgt. Portelli arrived at the scene and parked in front of the building. Neither he nor PO Mclear ever entered the building. PO Carela, PO Pastula, PO Lane and possibly one other officer assigned to impact were at the scene. The officers told Sgt. Portelli that two individuals, subsequently identified as § 87(2)(b) and § 87(2)(b) had engaged in a drug transaction in front of the officers. One of the individuals arrested was the seller and the other was the buyer. § 87(2)(b) had also swallowed a controlled substance.

Sgt. Portelli instructed the officers to take § 87(2)(b) and § 87(2)(b) to the stationhouse for processing and then take § 87(2)(b) to the hospital. The officers also informed Sgt. Portelli that one or two individuals, identified through the investigation as § 87(2)(b) and § 87(2)(b) had attempted to interfere with the arrest. § 87(2)(b) and § 87(2)(b) had shouted that one of the individuals arrested was their relative and had asked what the officers were doing. § 87(2)(b) and § 87(2)(b) were in close proximity to the officers and were instructed to step back. Sgt. Portelli did not know whether § 87(2)(b) and § 87(2)(b) were frisked or searched and did not recall reviewing the stop, question and frisk reports which had been prepared for them.

Sgt. Portelli was asked why two different stop, question and frisk reports were prepared for § 87(2)(b). Sgt. Portelli could only assume that § 87(2)(b) had been stopped prior to the arrest. Sgt. Portelli assumed that § 87(2)(b) had been frisked on suspicion of criminal possession of a weapon because this is normal procedure when an individual is evincing violent behavior and has attempted to intervene in police business. Sgt. Portelli did not believe that any officers were injured as a result of the incident. Sgt. Portelli did not know of any additional circumstances surrounding the incident, the arrest or the stop effected by PO Carela and PO Pastula.

Medical Records:

§ 87(2)(b) Emergency Records

According to § 87(2)(b) Emergency Department Triage Assessment Form (encl. 45a – 45c), § 87(2)(b) was seen by medical personnel on § 87(2)(b), at § 87(2)(b). Medical personnel noted minor swelling to her right elbow. § 87(2)(b) appeared to be in mild to moderate distress; was oriented to time, person and place and not in any acute respiratory distress. Her pulse was strong and regular.

§ 87(2)(b) Result Report

According to § 87(2)(b) Result Report (encl. 46a – 46b), § 87(2)(b) was assessed on § 87(2)(b), at § 87(2)(b). Medical personnel noted that § 87(2)(b)'s right arm was slightly swollen but § 87(2)(b) had full range of motion. At § 87(2)(b), § 87(2)(b) was awake, alert, and oriented to time, place and person. She was moving all her extremities. Medical personnel noted that upon triage, she was in no sign of acute distress. § 87(2)(b) was prescribed pain medication and instructed to take this as needed. § 87(2)(b) was discharged at § 87(2)(b).

Communications Records:

The SPRINT (encl. 47b) and a communications CD (encl. 47a) note that on March 10, 2008, at 10:58 PM, a housing unit indicated that they were going to conduct a vertical of § 87(2)(b). The housing unit later requested a housing impact sergeant to the location for an arrest verification, and noted that it was a non-emergency. At 11:18 PM, the housing unit later called central and reported that two arrests had been effected as a result of the vertical, and that the sergeant was on scene. The housing unit asked central to send an ambulance to the PSA7 stationhouse with regards to one of the individuals arrested, who had swallowed narcotics.

Police Department Documents:

PSA 7 Roll Call

The roll call for March 10, 2008 (encl. 48a – 48c), shows that Sgt. Portelli was the assigned impact sergeant in radio motor patrol vehicle 9453. PO Lane, PO Soberal, PO Carela and PO Pastula were assigned to impact in the Mitchell housing units.

PSA 7 Command Log

The command log (encl. 49) for March 10, 2008, shows that PO Soberal arrested § 87(2)(b) and § 87(2)(b) at 11:50 PM. § 87(2)(b) was transported to § 87(2)(b) and returned to the precinct at 3:00 AM. Their physical and mental appearance was noted as apparently normal. Both were transported to Central Booking at 3:45 AM.

PSA 7 Prisoner Holding Pen Roster

The prisoner holding pen roster (encl. 50) for March 10, 2008, shows that § 87(2)(b) was in the holding cell from 12:00 AM to 3:30 AM and § 87(2)(b) was in the holding cell from 2:00 AM to 3:00 AM. PO Soberal was their guarding officer.

Property Vouchers

A cellular phone, forty-five dollars and one bag of marijuana were vouchered to § 87(2)(b) (encl. 51a – 51c). A cellular phone was vouchered to § 87(2)(b) (encl. 52)

§ 87(2)(b) Arrest Photo

§ 87(2)(b)'s arrest photo showed no signs of an observable injury (encl. 18).

§ 87(2)(b) Arrest Photo

§ 87(2)(b)'s arrest photo showed no signs of an observable injury (encl. 21).

Civilian Criminal Conviction History

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Officer CCRB History

PO Brian Pastula, PO Jean Carela, PO Isaac Soberal and PO John Lane have been members of the service for one year and have had no CCRB allegations substantiated against them (encl. 5a – 5d).

Notice of Claim Inquiry

As of July 1, 2008, the Comptroller's Bureau of Law and Adjustment determined that neither § 87(2)(b) nor § 87(2)(b) had not filed a notice of claim with regard to the incident (encl. 54).

Conclusions and Recommendations

Officer Identification

Statements and documentary evidence confirmed the involvement of PO Brian Pastula, PO Jean Carela, PO Isaac Soberal and PO John Lane on the day of the incident. § 87(2)(b) was clear in stating that the officer who later provided his name to him as "Carela" spoke obscenely to him, threatened to arrest him, searched him, used physical force against him and refused to provide his name and shield number to him. These allegations have therefore been pleaded against PO Carela. § 87(2)(b) was clear in stating that the officer who provided his name to him as "Pastula" spoke obscenely to him. § 87(2)(g) § 87(2)(b) alleged that an officer, whom he described as a white male, about

6'2" to 6'3" tall, of medium build with light colored hair, directed profanity towards him. § 87(2)(g)

§ 87(2)(b) alleged that an officer spoke obscenely to her, used physical force against her and frisked her. § 87(2)(b) described this officer as a white male officer who was 5'6" to 5'7" tall with short black hair. PO Carela matched this description and admitted to frisking § 87(2)(b) § 87(2)(g) § 87(2)(b) alleged that two additional white males who were initially standing by § 87(2)(b) approached her and threatened her with arrest. PO Soberal and PO Lane, both of whom are white males, admitted to standing by § 87(2)(b) § 87(2)(g) § 87(2)(b) alleged that an officer spoke obscenely to her when requesting her ID. She described this officer as a white male who was about 5'9" tall, of medium build, and had blonde hair. § 87(2)(g)

§ 87(2)(b) alleged that an officer used physical force against him and directed profanity towards him. § 87(2)(b) also alleged that two officers used physical force against him. § 87(2)(g)

Undisputed Facts

It is undisputed that PO Carela used profanity on the day of the incident. It is undisputed that PO Carela informed § 87(2)(b) that he could be arrested. It is undisputed that PO Carela placed his hands on § 87(2)(b) and frisked her.

Disputed Facts

§ 87(2)(g)

Assessment of Evidence

§ 87(2)(b) first alleged that PO Carela twice told him to "mind [his] fucking business" and "take [his] ass" inside his apartment before he was arrested. § 87(2)(b) assertion was discredited by the fact that, in his initial complaint to IAB, he contrastingly stated that PO Pastula issued these statements to him. § 87(2)(b) various statements regarding the use of profanity were not consistent. These inconsistencies were noted extensively in the summary of his complaint above. § 87(2)(b) also alleged that PO Carela said, "Get § 87(2)(b) the fuck away from me" and said "I want to see your fucking ID." § 87(2)(b) alleged also that PO Pastula had asked him if had a "fucking problem" and threatened to "lock his ass up." § 87(2)(b) did not corroborate any of these statements, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) PO Carela did admit to informing § 87(2)(b) that he could be arrested during the incident. PO Carela stated that he so informed them when § 87(2)(b) and § 87(2)(b) repeatedly refused to step back. PO Carela explained at the time of his interview that § 87(2)(b) and § 87(2)(b) could have been arrested for obstructing governmental administration, among other charges which were discussed in more detail in his statement above. PO Pastula, PO Soberal and PO Lane corroborated PO Carela's statement.

§ 87(2)(b) alleged that PO Carela told her to, “Get the fuck inside, get the fuck inside” when she approached him for information regarding § 87(2)(b)’s arrest. PO Carela stated that § 87(2)(b) and § 87(2)(b) came within two feet of him as his partners were attempting to effect § 87(2)(b)’s arrest. They were screaming, cursing and refused to comply with repeated instructions to step back. PO Carela admitted that his tone of voice rose with each command, and stated that he may have said “Stay the fuck back” or “stay the fuck over there” as a result. PO Pastula corroborated PO Carela’s statement. § 87(2)(b) did not mention PO Carela repeatedly instructing her to step back. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) also alleged that PO Lane and PO Soberal twice told her that if she “kept talking shit,” they would “lock [her] up.” § 87(2)(b) did not corroborate § 87(2)(b)’s statement. PO Soberal and PO Lane denied threatening or directing profanity towards § 87(2)(b). The incident between § 87(2)(b) and the officers took place in the middle of her hallway. § 87(2)(b) stated that PO Lane and PO Soberal were by the elevators at the other end of the hallway. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged that, as she and § 87(2)(b) walked towards their apartment, PO Carela grabbed her waist with both hands and slammed her against the wall of her hallway. In his interview with the CCRB (encl. 11a – 11e), § 87(2)(b) contrastingly stated that PO Carela grasped § 87(2)(b) by the arm, turned her around and pushed her against the wall. In his initial statement to IAB (encl. 6), § 87(2)(b) added that § 87(2)(b) voluntarily stood against the wall. According to PO Carela, he approached § 87(2)(b) and instructed her to stand against the wall in the hallway. § 87(2)(b) complied and he grasped her upper shoulders with both hands in order to maneuver her against the wall.

§ 87(2)(b) alleged that her elbow was injured as a result of being ‘slammed’ against the wall, though § 87(2)(b) contrastingly indicated that this injury was accidental in nature. § 87(2)(b) later sought medical treatment at § 87(2)(b) Center as a result of this injury. According to emergency records prepared at § 87(2)(b) (encl. 45a – 45c), medical personnel noted that § 87(2)(b)’s elbow was slightly swollen. By § 87(2)(b), § 87(2)(b) reported that she felt well (encl. 46a – 46b). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) It is undisputed that PO Carela then frisked § 87(2)(b) by patting her along her body.

§ 87(2)(b) alleged that, upon the conclusion of this frisk, PO Pastula turned to her and said, “Go get your fucking ID; go get your fucking ID now.” While § 87(2)(b) corroborated the substance of this assertion, he contrastingly stated that it was PO Carela who issued this statement. PO Pastula admitted to directing profanity towards § 87(2)(b) during the beginning of the incident. When § 87(2)(b) did not comply with his instructions to step back, he stated “get the fuck back” and “god damn it, get the fuck back.” However, aside from these statements, PO Pastula asserted that he never directed any profanity towards § 87(2)(b) and § 87(2)(b). PO Carela corroborated PO Pastula’s statement. PO Pastula prepared a stop, question and frisk report for § 87(2)(b) (encl. 26a – 26d), which noted that her identification was confirmed via a photo ID. § 87(2)(g) PO Pastula did not recall whether § 87(2)(b) had her photo ID on her person at the time of the incident, though he recalled that he may have requested it from her.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged that when § 87(2)(b) was instructed to retrieve her ID, PO Carela turned towards him and asked him whether he had anything in his pockets, including sharp objects or drugs. § 87(2)(b) alleged that PO Carela then searched through all of his pockets, kicked his right calf in order to move his legs farther apart, and searched through his pockets again before informing him that he was free to leave. According to PO Carela, he only frisked § 87(2)(b) and stated that he never kicked his legs farther apart. PO Carela's statement was corroborated by the stop, question and frisk report (encl. 30a – 30d) he prepared for § 87(2)(b)

§ 87(2)(g)

According to § 87(2)(b) was searched by PO Pastula while PO Carela frisked her. § 87(2)(b) stated that both she and § 87(2)(b) then returned to their residence after PO Pastula requested her ID. § 87(2)(g)

§ 87(2)(b) alleged that when he attempted to enter his apartment, PO Pastula said, "What did you say? Do you have a fucking problem?" § 87(2)(b) alleged that when he later asked PO Pastula for his name and shield number, he also stated "It's not like you can do shit with it" after providing it to him. § 87(2)(b) additionally alleged that PO Lane approached him at this time and said, "Why don't you just shut the fuck up." § 87(2)(b) made no mention of this allegation at the time of his initial statement to IAB (encl. 6) or during his telephone statement to the CCRB (encl. 10).

§ 87(2)(b) did not corroborate any of § 87(2)(b) assertions regarding the use of profanity by PO Pastula and PO Soberal. Both officers denied using such profanity § 87(2)(g)

§ 87(2)(b) stated that he requested PO Pastula's name and shield number, which PO Pastula provided. § 87(2)(b) alleged that, when he requested the same from PO Carela, PO Carela refused to provide this information. § 87(2)(b) however, contrastingly stated at the time of her telephone statement to the CCRB (encl. 14) that § 87(2)(b) recorded the names and shield numbers of both PO Pastula and PO Carela at the conclusion of the incident. PO Carela recalled that PO Pastula had provided his name and shield number, but stated that § 87(2)(b) never requested his own name or shield number. While § 87(2)(b) indicated that he was able to obtain this information the following day, PO Carela had no memory of volunteering his name and shield number to § 87(2)(b)

PO Carela explained that, due to the number of times which he has stopped § 87(2)(b) both are familiar with each other by name. He also stated that his name was clearly displayed on the day of the incident.

§ 87(2)(g)

In his telephone statement with the CCRB (encl. 17), § 87(2)(b) alleged that an officer used physical force against him and later directed profanity towards him. At the time of his own telephone statement to the CCRB (encl. 20), § 87(2)(b) alleged that two officers brought him to the ground during his arrest. The

§ 87(2)(g)

Allegation A. PO Jean Carela spoke obscenely to § 87(2)(b)

§ 87(2)(g)

Allegation B. PO Jean Carela threatened to arrest § 87(2)(b)

PO Carela admitted to informing § 87(2)(b) that he could be arrested during the incident. PO Carela was clear in explaining that, among other charges, § 87(2)(b) could have been arrested for obstructing governmental administration. According to §195.05 of Criminal Procedure Law, “a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs...or prevents or attempts to prevent a public servant from performing an official function” (encl. 1). § 87(2)(g)

Allegation C. PO Jean Carela spoke obscenely to § 87(2)(b)

PO Carela admitted to using the word “fuck” when instructing § 87(2)(b) to step back. As was addressed under the assessment of evidence, PO Carela characterized his encounter with § 87(2)(b) as extremely stressful. He explained that he had used the word “fuck” in order to gain compliance through the use of a firmer voice and more forceful language after his initial verbal commands were ignored by § 87(2)(b). PO Carela knew also that § 87(2)(b) was known to carry razor blades on her person and had been arrested in the past on violent felony charges.

According to *NYPD v. Court*, disciplinary decisions involving the use of profanity “have consistently concluded that when a police officer uses an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation, the police officer’s verbal slip does not rise to the level of actionable misconduct” (encl. 2). The decision reached in *NYPD v. Court* was echoed in *NYPD v. White* (encl. 3). In this case, an officer used the phrase ‘get the fuck back’ while attempting to keep a crowd away from a crime scene.

§ 87(2)(g)

§ 87(2)(g)

Allegation D. PO John Lane threatened to arrest § 87(2)(b)

Allegation E. PO Isaac Soberal threatened to arrest § 87(2)(b)

§ 87(2)(g)

Allegation F. PO Jean Carela used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation G. PO Jean Carela frisked § 87(2)(b)

According to §140.50(3) of Criminal Procedure Law, when a police officer “reasonably suspects that he is in danger of physical injury, he may search such person for a deadly weapon or any instrument, article or substance readily capable of causing physical injury and of a sort nor ordinarily carried in public places by law-abiding person” (encl. 4a).

PO Carela admitted to frisking § 87(2)(b). PO Carela suspected that § 87(2)(b) was armed due to the following factors. First, PO Carela knew § 87(2)(b) had been arrested on violent felony charges in the past. PO Carela had also learned from those arrested for purchasing narcotics from § 87(2)(b) that she was armed with razors, which she secreted in her waistband. PO Carela feared for his safety due to the nature of the incident and his knowledge of her prior offenses and typical behavior, and frisked her for these reasons.

However, as noted by Barry Kamins’ treatise, *New York Search & Seizure*, the right to frisk is predicated upon a dual requirement of reasonable suspicion of criminal activity as well as the belief that a suspect is armed. “Otherwise, safety concerns and self-protective procedures could swallow the rule itself” (encl. 4b).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation H. PO Brian Pastula spoke obscenely to § 87(2)(b) and § 87(2)(b)

§ 87(2)(g)

Allegation I. PO Jean Carela searched § 87(2)(b)

Allegation J. PO Jean Carela used physical force against § 87(2)(b)

§ 87(2)(g)
[Redacted]
[Redacted]

Allegation K. PO John Lane spoke obscenely to § 87(2)(b)

§ 87(2)(g)
[Redacted]
[Redacted]

Allegation L. PO Jean Carela refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(g)
[Redacted]
[Redacted]

Allegation M. Officers used physical force against § 87(2)(b) and § 87(2)(b)

Allegation N. An officer spoke obscenely to § 87(2)(b)

§ 87(2)(g)
[Redacted] § 87(2)(b) did not
respond to five calls and failed to appear for a scheduled interview. § 87(2)(b) did not respond to six calls
and failed to appear for two scheduled appointments. § 87(2)(g)
[Redacted]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: